

Trial Preferences

Hours of Day for Trial

Judge Arterton normally has a 9:00 a.m. to 3:00 p.m. trial day with two fifteen-minute breaks for both jury and bench trials. Motions and other matters can be heard after 3:00 p.m.

Days of Week for Trial

Judge Arterton ordinarily conducts trial five days a week, but will consider days off for a long trial.

Time Limitations for Trial

Time limitations for each side are based on what the lawyers estimate is needed for trial. Judge Arterton holds counsel to their time requests. Due to tight scheduling, Judge Arterton says the court cannot accommodate trials that go over the estimated time. Judge Arterton will time each side. Cross-examination counts for the time of the party conducting the cross.

Examinations of Witnesses

Judge Arterton does not use time limits for individual witnesses. She requires that each party have enough witnesses available to fill up the entire trial day. If both parties are going to call the same witness, ordinarily the witness will only take the stand once, with the examination by both sides conducted sequentially.

Opening Statements

Judge Arterton will allow opening statements on request, unless she believes counsel has a history of abusing the proper scope of opening statements. Motions for opening argument should be filed by the final pretrial conference. Counsel agrees on the length of the opening, which is usually fifteen minutes to a half hour. She believes openings can be useful but are often not used effectively. She does not receive many requests for opening statements in either civil or criminal trials.

Closing Arguments

Judge Arterton generally limits closings in civil cases to no more than an hour, unless counsel make a convincing case that more time is needed. She will stop counsel when they reach their limit, even if they are not finished. She generally does not limit the time for closings in criminal cases, though counsel must schedule the time for closings beforehand. Judge Arterton charges the jury before closing argument. The jury is given a copy of the charge and Judge Arterton encourages counsel to incorporate the charge into the closing.

Demonstrative Exhibits

Judge Arterton requires that demonstrative exhibits be shown to opposing counsel first. Counsel can use a new demonstrative exhibit in the closing so long as counsel shows it to the other side first.

Moving Exhibits into Evidence

If the other party does not object to the exhibit in the trial management order, counsel does not have to formally move the admission of exhibits. When first using an exhibit during examination, counsel must identify the number or letter of the exhibit to preserve the record of what has been entered into evidence, by saying, for example, "Showing you Exhibit 7, to which no objection is made"

Pre-marking of Exhibits

Judge Arterton requires pre-marking and exchange of exhibits shortly before the final pretrial conference. She requires two copies of tabbed bench books of all exhibits a few days before trial. Exhibits should be organized by witness.

Procedural Motions and Arguments

Judge Arterton tries to handle these matters during breaks and after 2:00 p.m. She rarely has sidebars in jury cases, and will ask counsel to move onto another issue until the matter can be taken up at a break or at the end of the day.

Objections

Objections that require argument will be heard at breaks or after 2:00 p.m. Documentary objections and motions *in limine* should be included in or accompany the parties' joint trial memorandum.

Jury Profiles

Judge Arterton uses case-specific questionnaires in some criminal trials and in sensitive civil trials involving issues such as mental health, sexual abuse, or controversial religious and political issues.

Jury Selection

Judge Arterton uses the box method of jury selection in which jury selection is directed to a smaller group of the entire panel located in the jury box. She first canvasses the box for schedule availability. The box members then complete the juror questionnaire, which is a standard form asking general questions such as profession and prior experience with the legal system. Counsel can suggest additional questions for the questionnaire, but this is uncommon. Each box member stands and reads his or her questionnaire responses, and Judge Arterton then conducts the *voir dire* of that panel member. Counsel can ask for a box member to be questioned at sidebar. The court conducts the initial questioning at sidebar and counsel usually is allowed to follow up with

his or her own questions. When the court is finished with the *voir dire* of the box, each counsel is permitted five minutes to conduct his or her own *voir dire* of the box. This takes place before the entire panel.

Jurors in a Civil Case

Judge Arterton usually selects eight jurors in civil cases. In a longer case, there will be more.

Juror Notebooks

Judge Arterton permits juror exhibit books but finds that the practice is becoming less common with the use of electronic presentation of documents.

Juror Notes

Jurors are allowed to take notes in every case. The court provides notebooks.

Juror Charge

Counsel are directed to submit their requests to charge on disk. The judge provides a draft of the charge at the conference based on the charges in the Trial Memorandum and any supplemental charges submitted during trial. Counsel are given a final version of the charge before it is given. The jurors are given their own copies of the charge in writing.

Post-verdict Communications with Jurors

Judge Arterton very rarely allows post-verdict communication with jurors by counsel and believes it has served little use the times she has permitted it.

Motions *in limine*

Motions *in limine* are submitted by counsel with the Joint Trial Memorandum.

Technology

No technology is provided in the courtroom, though use of Elmo is common. The court does have facilities to safely store electronic equipment overnight.

Counsel Placement in Court

Judge Arterton has no rules on counsel placement in the court.

Miscellaneous

Judge Arterton has a Trial Procedures and Requirements sheet discussing many of her trial practices. She uses the Standing Order Regarding Trial Memoranda in Civil Cases for the trial compliance.

When asked what aspects of trial practice she wished to bring to the attention of the lawyers appearing before her, Judge Arterton said that the lawyers who will actually try the case must appear at the final pretrial conference, or risk having the court order the lawyer who does appear to try the case.